

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Arizona Broadcasters Association, et al.,

Plaintiffs,

v.

Kris Mayes, in her official capacity as
Attorney General for the State of Arizona,
et al.,

Defendants.

No. CV-22-1431-PHX-JJT

**[PROPOSED] ORDER FOR
PERMANENT INJUNCTION
AND DECLARATORY
JUDGMENT**

Upon stipulation of the parties and good cause shown, and for the reasons set forth on the record at the hearing on Plaintiffs' request for a Preliminary Injunction, which this Court will treat as a trial on the merits under Rule 65(a)(2), and in Plaintiffs' Complaint and Motion for Preliminary Injunction, which Defendants did not challenge on the merits,

IT IS ORDERED as follows:

1. This Court has jurisdiction over this matter under Article III § 2 of the United States Constitution and 28 U.S.C. §§ 1331 and 1343.
2. A.R.S. § 13-3732 is declared unconstitutional as a violation of the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment, because:

- a. there is a clearly established right to record law enforcement officers engaged in the exercise of their official duties, *see e.g., Askins v. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018);
- b. the statute imposes a content-based restriction that is subject to strict scrutiny as it “singles out specific subject matter”—recordings of law enforcement activities—“for differential treatment,” *Reed v. Town of Gilbert*, 576 U.S. 155, 169 (2015); and
- c. the statute does not survive strict scrutiny because it is not narrowly tailored or necessary to prevent interference with police officers given other Arizona laws in effect.

3. A.R.S. § 13-3732 is declared unconstitutional as a violation of the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment, because:

- a. the statute is not a reasonable “time place and manner” restriction, *see Hill v. Colorado*, 530 U.S. 703, 713 (2000); and
- b. the statute cannot withstand intermediate scrutiny because the law prohibits or chills a substantial amount of First Amendment protected activity and is unnecessary to prevent interference with police officers given other Arizona laws in effect.

4. Defendants, and any others acting in concert or participation with them who receive actual notice of this injunction, are permanently enjoined from enforcing A.R.S. § 13-3732 against any person or entity, or using an alleged violation of A.R.S. § 13-3732 as an excuse, justification, or reason to punish or otherwise take or fail to take any action adverse to the interests of any person or entity.

5. This Court shall retain jurisdiction over this action for the purposes of construction, modification, and enforcement of this Order.

Dated this _____ day of _____ 2023.

Honorable John J. Tuchi
United States District Judge